

Received ^{County}

INITIATIVE PETITION

MAY 06 2009

To the Honorable Gary Herbert, Lieutenant Governor:

Gary R. Herbert
Lieutenant Governor

We, the undersigned citizens and registered voters of the State of Utah, respectfully demand that the following law entitled “**UTAH REDISTRICTING STANDARDS COMMISSION**” be submitted to the legal voters of Utah for their approval or rejection at the regular general election to be held on November 2, 2010. Each signer says: “I have personally signed this petition; I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and my residence and post office address are written correctly after my name.”

UTAH REDISTRICTING STANDARDS COMMISSION

This bill enacts provisions in the Election Code to establish an independent redistricting commission.

Highlighted Provisions:

This bill:

- provides definitions;
- provides the requirements for election districts;
- establishes an independent redistricting commission that is composed of Utah citizens;
- requires that redistricting only occur every ten years after the decennial census or in association with a change in the number of congressional or legislative seats for a reason other than the decennial census;
- establishes the membership requirements and procedures for the commission;
- provides for the replacement and compensation of members;
- requires the commission to prepare a redistricting plan for presentation to the legislature;
- provides a uniform scoring matrix for the commission's creation and consideration when preparing a redistricting plan;
- provides that technical staff for the commission be provided by the Office of Legislative Research and General Counsel and permits the commission to hire its own legal counsel for legal assistance;
- requires the commission to adopt a plan but permits alternative plans submitted by citizens to be considered by the commission;
- requires the commission to hold public hearings on the draft plan adopted by the commission;
- requires the commission to adopt a final redistricting plan;

requires the commission to request that the plan be submitted to the legislature for the legislature's approval or rejection at a Special Session;

requires the legislature to prepare written findings;

requires the legislature to prepare a redistricting plan in compliance with mandatory anti-gerrymandering standards if the commission's plan is rejected; and

provides a severability clause.

Monies Appropriated in this Bill:

None

Other Special Clauses:

Severability Clause

Utah Code Sections Affected:

ENACTS:

20A-16-101, Utah Code Annotated 1953

20A-16-102, Utah Code Annotated 1953

20A-16-103, Utah Code Annotated 1953

20A-16-104, Utah Code Annotated 1953

20A-16-105, Utah Code Annotated 1953

20A-16-106, Utah Code Annotated 1953

20A-16-107, Utah Code Annotated 1953

20A-16-108, Utah Code Annotated 1953

20A-16-109, Utah Code Annotated 1953

20A-16-110, Utah Code Annotated 1953

20A-16-111, Utah Code Annotated 1953

Be it enacted by the People of the state of Utah:

Intent Statement.

It is the intent of the People in enacting this initiative, Utah Redistricting Standards Commission, to enact legislation that provides for uniform procedures and standards in redrawing the boundaries of legislative districts. In previous decades of redistricting, election district lines were manipulated for political advantage by incumbents, effectively undermining the ideals of a republic and thwarting the true purpose of redistricting--to provide equal representation to each voter. In lieu of divisions made by the state legislature with its inherent conflict of interest, this politically independent commission will be required to draw political maps with accountability and transparency, thereby creating election district boundaries that comply with the Voting Rights Act, the United States Constitution, and the Utah State Constitution. Statutory provisions are

herein enacted to produce better maps of election districts which are reasonably equal in population, reasonably compact, contiguous, and respectful of existing city and county boundaries. The commission must consider communities of common interest and make use of natural and geographic boundaries. Additionally, the projected outcome of the commission's work will be improved voter participation and increased competitiveness in elections.

Section 1. Section **20A-16-101** is enacted to read:

CHAPTER 16. UTAH REDISTRICTING STANDARDS COMMISSION

20A-16-101. Title.

This chapter is known as the "Utah Redistricting Standards Commission."

Section 2. Section **20A-16-102** is enacted to read:

20A-16-102. Definitions.

As used in this part:

- (1) "Absolute deviation" means the mathematical difference between the population of the proposed district from the ideal population.
- (2) "Census" means the enumeration of the population as mandated by the United States Constitution, Article I, Section 2.
- (3) "Census blocks" means the smallest geographic area for which the United States Census Bureau collects and tabulates statistical data.
- (4) "Commission" means the Utah Redistricting Standards Commission.
- (5) "Compact" means the minimum distance between all parts of the district to the extent reasonably permitted by natural or political boundaries as derived by a mathematical formula involving the cumulative length of district boundaries.
- (6) "Contiguous" means the area that is continuous, uninterrupted, and without an island or territory not included as part of the area at some point with the rest of the district. Areas which meet only at the points of adjoining corners are not contiguous.
- (7) "District" means the geographic boundaries from which a political candidate is elected.
- (8) "Federal decennial census" means the United States Census Bureau conducts a census of the population and housing of the United States and provides the data for the official population enumeration.
- (9) "Gerrymandering" means the manipulation of election district lines for political advantage.
- (10) "Ideal population" means the total state population divided by the number of seats in the congressional, legislative, and school districts.
- (11) "Political subdivision" means a county, city, town, or school district.
- (12) "Population deviation" means the absolute deviation divided by the ideal population.

(13) "Redistricting" means the process by which the Utah Redistricting Standards Commission divides the state into districts for purposes of electing members of Congress, the state legislature, and school districts.

(14) "Redistricting plan" means the official maps of the districts which establish the legal boundaries from which a political candidate is elected.

(15) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote for any of its candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives; or

(b) has complied with the petition and organizing procedures of Title 20A, Chapter 8, Political Party Formation and Procedures.

(16) "School district" means a school district subject to the general control and supervision of the Utah State Board of Education.

(17) "Scoring matrix" means mathematical values assigned to redistricting standards.

(18) "Standards" means the requirements and conditions which shall govern the redistricting procedures and redistricting plan established for the state's congressional, legislative, and school districts.

Section 3. Section **20A-16-103** is enacted to read:

20A-16-103. Permitted Times for Redistricting.

(1) In accordance with Utah Constitution, Article IX, Section 1, no later than the annual general session next following the legislature's receipt of the results of the enumeration made by the authority of the United States, the legislature shall divide the state into congressional, legislative, and other districts.

(2) Redistricting may occur only at the following times:

(a) every ten years, in the year following the federal decennial census; or

(b) in association with a change in the number of congressional districts that results from an event other than the federal decennial census as provided in Sections 20A-13-101.

Section 4. Section **20A-16-104** is enacted to read:

20A-16-104. Mandatory District Standards.

(1) The adopted redistricting plan shall comply with the mandatory anti-gerrymandering standards for districts in Utah as provided in this section.

(2) Each district shall:

(a) comply with the requirements of the United States Constitution, the Utah State Constitution, and the Voting Rights Act, 42 U.S.C. 1973, et seq.;

(b) equalize population between districts to the greatest extent practicable, using the most recent population data as reported in the federal decennial census in a manner that shall render:

(i) a population deviation in congressional districts no greater than one-half of one percent (.5 percent) as required to comply with the standards of subsections (a) through (g); and

(ii) a population deviation in state legislative districts and school board districts no greater than four percent (4 percent) as required to comply with the standards of subsections (a) through (g);

(c) be contiguous;

(d) be reasonably compact;

(e) coincide with the boundaries of the political subdivisions of the state by using census blocks;

(i) to minimize the number of cities and counties divided among more than one district in a redistricting plan; and

(ii) to divide first the most populous political subdivision when a choice exists as to dividing political subdivisions except when a legislative district boundary drawn along a county line passes through a city that lies in more than one county;

(f) identify and preserve communities of common interest, including cultural, demographic, economic, ethnic, geographic, and trade area factors; and

(g) identify and utilize natural and geographic boundaries and barriers in the creation of district boundaries.

(3) The redistricting plan may not:

(a) create any district drawn to unduly favor or disfavor any particular person or registered political party;

(b) make use of addresses or political affiliations of registered voters; and

(c) make use of addresses or political affiliations of incumbent legislators or members of Congress. And

(d) identify communities of common interest based substantially upon political relationships with political parties, incumbent members of Congress, the legislature or school districts.

Section 5. Section 20A-16-105 is enacted to read:

20A-16-105. Utah Redistricting Standards Commission – Creation – Purpose – Appointment – Requirements for Commission Members – Vacancy – Per Diem.

(1) There is created the Utah Redistricting Standards Commission to prepare a redistricting plan to be approved or rejected by the legislature in a special session.

(2) (a) The commission shall:

(i) consist of eleven members, appointed as provided in Subsections (4) and (5); and

(ii) be constituted and convened in connection with each redistricting consistent with time limitations of Subsection 20A-16-103(2).

(b) In selecting the commission membership, consideration shall be given to achieve membership that is politically diverse and balanced from the various geographical areas of the state with:

(i) no more than four members from the same registered political party;

(ii) no more than three members who declare themselves to be unaffiliated with any registered political party; and

(iii) no more than four members from any one county of the first or second class as provided in Section 17-50-501.

(3) (a) At the time of appointment, each commission member shall:

(i) be a citizen of the United States;

(ii) be at least 25 years of age;

(iii) be a resident of the state for three consecutive years immediately before the appointment; and

(iv) possess traits of impartiality and analytical ability.

(b) The following persons may not be appointed to or serve on the commission when constituted:

(i) any person who holds an elected or appointed public office;

(ii) a lobbyist as defined in Section 36-11-102; or

(iii) a principal of a lobbyist as defined in Section 36-11-102.

(4) On or before January 31 of the year following the federal decennial census, the following members shall be appointed to the commission:

(a) three members shall be appointed by the president of the Utah Association of Counties, with no two members from the same registered political party or county;

(b) three members shall be appointed by the president of the Utah League of Cities and Towns, with no two members from the same registered political party or county;

(c) one member shall be appointed by the chair of the Utah State Board of Education; and

(d) four members, from a pool of qualified citizen applicants with no more than two members from the same registered political party or county, shall be appointed by the seven other commission members who were appointed pursuant to subsections (4) (a) through (c).

(5) (a) Pursuant to subsection (4) (d), any Utah citizen may submit an application to the commission for consideration for appointment. Upon the commission's screening that the citizen applicant complies with the requirements of subsection (3), the citizen shall be included in the pool of candidates.

(b) The application shall be filed:

(i) no later than 5 p.m. on the second Thursday in January of the year following the federal decennial census or at a date and time set by the lieutenant governor in compliance with Subsection 20A-16-103(2);

(ii) with a signed and written agreement to comply with Subsections (3) and (7); and

(iii) with a statement of registered political party affiliation or no affiliation.

(6) The commission members shall select one chair and one vice chair.

(7) A person who serves as a member of the commission shall agree in writing not to seek election to or hold any of the offices for which the commission establishes districts until after the completion of the election for that office following the adoption of a redistricting plan by that commission member.

(8) When a vacancy occurs in the membership of the commission for any reason, the vacancy shall be filled, within 14 days of the date of the vacancy, in the same manner as the appointment of the original member.

(9) (a) Except as specifically provided in this chapter, attendance of a majority of the members of the commission shall constitute a quorum for the conducting of business and the taking of official action.

(b) The commission shall meet at least monthly or upon the request of a majority of the members of the commission.

(c) The commission shall conduct business and take official action in accordance with Robert's Rules of Order.

(10) (a) Members shall not receive compensation or benefits for their services, but commission members who are not government employees may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A commission member may decline to receive per diem and expenses for service to the commission.
Section 6. Section 20A-16-106 is enacted to read:

20A-16-106. Duties of Commission – Standards for Preparation of Redistricting Plans – Scoring Matrix – Staff.

(1) The commission shall prepare a redistricting plan that divides the state into single member districts for each congressional, state House, state Senate, and state school board district as required by the enumeration pursuant to the federal decennial census or other change in the number of congressional or legislative seats consistent with Section 20A-16-103.

(2) In preparing a final redistricting plan as required under this chapter, the commission shall do the following:

(a) at the commencement of the mapping process for the districts, initially create districts of approximately equal population across the state;

(b) identify, define, and comply with the mandatory anti-gerrymandering standards of Subsections 20A-16-104(2) and (3);

(c) adjust the districts as necessary to accommodate the mandatory standards of Section 20A-16-104;

(d) provide input and guidance to the Office of Legislative Research and General Counsel or other attorney hired pursuant to subsection (4);

(e) conduct all deliberations in public hearings subject to Title 52, Chapter 4, Open and Public Meetings Act;

(f) consider any redistricting plan that is submitted by any citizen or commission member on the condition that at least two commission members recommend that the plan be scored;

(g) act as a liaison to the public by providing the proposed plan and conducting the public hearings required in Section 20A-16-108(2); and

(h) complete the redistricting procedure and prepare the redistricting plan.

(3) (a) The commission shall create one neutral and uniform scoring matrix to be applied to each draft plan to achieve a non-gerrymandered redistricting plan.

(b) The highest scoring plan shall be determined to be the redistricting plan to be submitted to the legislature.

(4) (a) The Office of Legislative Research and General Counsel shall provide the technical staff and legal assistance, computer software, and other equipment for the commission.

(b) The commission shall be permitted to hire its own legal counsel to provide legal assistance to the commission who shall serve at the pleasure of the commission.

Section 7. Section **20A-16-107** is enacted to read:

20A-16-107. Preparation and Adoption of Redistricting Plan – Alternative Redistricting Plans.

(1) The commission shall prepare and, by the affirmative vote of a majority of the members of the commission, adopt a redistricting plan within 150 days after the later of:

(a) the date that the federal decennial census data are available to the public; or

(b) the date the commission is constituted under Section 20A-16-105.

(2) (a) A commission member may introduce one or more alternative redistricting plans for consideration by the commission pursuant to the uniform scoring matrix to determine which plan scores highest.

(b) The commission may authorize one plan to be presented during the public hearings as provided in Section 20A-16-106.

Section 8. Section **20A-16-108** is enacted to read:

20A-16-108. Public Hearings – Timing and Locations – Public Notice.

(1) In addition to the provisions of this section, the commission is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(2) (a) Within 14 days after the date of adopting a redistricting plan, the commission shall hold the first of no less than seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

- (iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;
- (v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;
- (vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and
- (vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.
- (b) At least two meetings must be held in a first or second class county, but not in the same county.
- (c) The number and location of the public hearings shall be determined by a majority vote of the commission.
- (d) Subject to Subsection (2) (e), public hearings may be held in the order and on a schedule adopted by a majority vote of the commission.
- (e) The last public hearing shall be completed within 190 days after the later of:
- (i) the date that the federal decennial census data are available to the public; or
- (ii) the date the commission is constituted and convened under Section 20A-16-103.
- (3) At least five calendar days before the date of each public hearing, the commission shall:
- (a) provide written notice of the public hearing to the lieutenant governor for posting on the state's website; and
- (b) publish written notice of the public hearing detailing its time, date, and location in at least one newspaper of general circulation in each county in the region where the public hearing will be held.
- (4) During the public hearing, the commission shall either:
- (a) record the public hearing, by video and audio, or by audio only, and deposit a complete copy of the recording with the Division of Archives and Records Services within seven days of the date of the meeting;
- or
- (b) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.
- (5) During each public hearing the commission shall accept written and verbal comments from the public.
- (6) The Division of Archives and Records Services shall make copies of the written comments and the recordings or minutes available to the public.
- (7) Notwithstanding Subsection 20A-16-105(9)(a), public hearings may be held by the commission with less than a quorum present, however, at least three members of the commission shall attend each public hearing.

Section 9. Section **20A-16-109** is enacted to read:

20A-16-109. Final Redistricting Plan – Resolution for Submission to the Legislature.

- (1) (a) After completion of the public hearings, the commission shall prepare and adopt a final redistricting plan.

(b) In preparing the final redistricting plan, the commission shall review the written comments and the records or minutes of the public hearings;

(2) Adoption of the final redistricting plan requires the affirmative vote of eight members of the commission.

(3) After adoption of the final redistricting plan and within seven days thereafter, the commission shall, by the affirmative vote of eight members of the commission, adopt a resolution that:

(a) states that a final redistricting plan has been adopted by the commission;

(b) requests that the final redistricting plan be introduced and submitted to the legislature for legislative action in a special session pursuant to the governor's proclamation no later than 30 days after adoption of the resolution; and

(c) recommends a member of each house of the legislature as the commission's preferred sponsor of the legislation to submit the final redistricting plan to the legislature.

Section 10. Section **20A-16-110** is enacted to read:

20A-16-110. Legislative Action.

(1) In accordance with Article IX, Section 1 of the Utah Constitution, the legislature may reject or enact the redistricting plan without change or amendment as prepared by the redistricting commission by a majority vote to reject in either House or a majority vote to enact in both Houses.

(2) In accordance with Article VI, Section 1 of the Utah Constitution and Section 20A-7-208, the legislative staff may make technical corrections only as authorized by Section 36-12-12 and prepare a legislative review note and legislative fiscal note on the redistricting plan.

(3) Upon approval or rejection, the legislature shall provide written findings as to whether or not the redistricting plan meets the requirements of Section 20A-16-104 and provide the written findings to the commission.

(4) If the commission's final redistricting plan is rejected, the legislature shall prepare a redistricting plan pursuant to the scoring matrix of Section 20A-16-106 and requirements of Title 52, Chapter 4, Open and Public Meetings Act, and adopt a redistricting plan in compliance with Subsection 20A-16-104.

Section 11. Section **20A-16-111** is enacted to read:

20A-16-111. Severability.

If any word, phrase, sentence, or section of this chapter or its application to any person or circumstance is determined to be invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 12. **Effective Date.**

If approved by the voters of the state, this initiative shall take effect on November 2, 2010.

I, Gary Herbert, Lieutenant Governor of the State of Utah, hereby certify that the initiative entitled **“UTAH REDISTRICTING STANDARDS COMMISSION”** contained in this petition section is a full, true, and correct copy of that initiative as proposed by the sponsors for referral to the people of the State of Utah for their approval as law or rejection.

Dated this _____ day of _____, 2009.

Gary Herbert

Lieutenant Governor